

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

WILLIAM JEFFREY MCCLURE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:16-CV-366 (MTT)
)	
Superintendent TIMOTHY JONES, et)	
al.,)	
)	
Defendants.)	
)	

ORDER

Before the Court is the Order and Recommendation of Magistrate Judge Stephen Hyles. (Doc. 12). The Magistrate Judge recommends denying the Plaintiff's motion for writ of mandamus (Doc. 6). The Plaintiff has not objected to the Recommendation.

The Court has reviewed the Recommendation, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge.¹ The

¹ The Recommendation points out that this Court lacks mandamus authority over the state officials the Plaintiff sued. (Doc. 12, at 2). In support, the Recommendation cites *Moye v. Clerk, DeKalb Cty. Super. Ct.*, 474 F.2d 1275 (5th Cir. 1973). (In *Bonner v. City of Prichard*, the Eleventh Circuit adopted as binding precedent all Fifth Circuit decisions delivered on or before September 30, 1981. 661 F.2d 1206, 1209 (11th Cir. 1981).) In *Moye*, the Eleventh Circuit held that federal district courts lack "the general power to issue writs of mandamus to direct state *courts and their judicial officers* in the performance of their duties where mandamus is the only relief sought." 474 F.2d at 1276. (emphasis added). The text of the mandamus statute, however, makes clear that a district court also lacks mandamus authority over non-judicial state officials. See 28 U.S.C. § 1361 (extending district courts' mandamus jurisdiction only to "an officer or employee of the United States or any agency thereof"). Further, district courts have applied *Moye's* holding to non-judicial state officials. See, e.g., *Church of Scientology of Ga., Inc. v. City of Sandy*

Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Plaintiff's motion for writ of mandamus (Doc. 6) is **DENIED**.

SO ORDERED, this 7th day of November, 2016.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

Springs, 843 F. Supp. 2d 1328, 1380 (N.D. Ga. 2012) ("Federal district courts do not have the authority to issue writs of mandamus to direct state officials in the performance of their duties.").